

REMARKS/ARGUMENTS

A. Status of the Claims

Claims 1-46 were originally filed. Claims 1-46 were subject to a Restriction Requirement. Claims 1-21 were elected for prosecution on the merits. Therefore, claims 22-46 have been withdrawn. Claims 1-21 are rejected. Applicants have amended claims 1, 15 and 18 to recite that a) the source water is capable of being in fluid communication with the inlet and the outlet, b) a first enhancement module is disposed at the outlet, c) the first enhancement module is downstream and spaced apart from the filter, and d) the first enhancement module dispenses a first enhancement into a stream of treated water. Support for a) can be found, for example, in the abstract and paragraph [0036] of the publication (“The treated water can flow from the filter device 130 into an outlet 115”). Support for b) and c) can be found, for example, in FIGs. 1 and 2 of the specification. Support for d) can be found, for example, in the abstract (“...and at least one enhancement module that can dispense an enhancement into the treated water as it flows through the outlet). Claims 9, 24 and 30 are amended to correct a spelling error. Therefore, no new matter is added and the amendments are fully supported by the specification.

B. Under 35 U.S.C. § 102(b) and 35 U.S.C. § 102(e)

Over Sizelove

Claims 1-4, 9, 11, 13-15, 18 and 19 are rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Sizelove *et al.* (U.S. Pat. Pub. No. 20030042201)(“Sizelove”). The Examiner has cited this reference because it discloses a system for enhancing water. Applicants respectfully traverse. Applicants submit that Sizelove is missing at least one element which is present in Applicants’ currently pending claims.

To render a claim unpatentable as anticipated, the prior art reference must teach each and every element of the claim. See, e.g., M.P.E.P. 2131.

For the sole purpose of expediting prosecution, Applicants have amended independent claims 1, 15 and 18 to recite that the first enhancement module is located downstream and spaced apart from the filter.

In contrast, Sizelove discloses that the enhancement module is not spaced apart from the filter. Sizelove states that, “In practice, the beneficial delivery device is attached to the purification segment downstream of the water source.” See Col. 1, paragraph [0010] and FIGs. 2-3 of the specification. Since Sizelove is missing this element of Applicants’ invention, an anticipation rejection cannot be maintained.

Therefore, Applicants respectfully request that this rejection be withdrawn.

Over Kagan

Claims 1, 3, 4, 9 and 10 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Kagan *et al.* (U.S. Pat. No. 5,922,378) (“Kagan”). Applicants respectfully traverse. Applicants submit Kagan is missing at least one element which is present in Applicants’ currently pending claims.

For the sole purpose of expediting prosecution, Applicants have amended claim 1 to recite that the enhancement module dispenses the consumable enhancing additive into a stream of treated water. Similar amendments are made to claims 15 and 18. In contrast, Kagan discloses that the enhancement module dispenses the additive when the water is sitting idle in the lower reservoir (i.e., not a stream of treated water). Kagan states, in relevant part, that there is “a lower reservoir for storing filtered water...a dispenser, mounted in communication with said lower reservoir for controllably adding a prequantified amount of a comestible additive to said filtered water) See the abstract, Col. 2, lines 24-30 of the specification. This is an important distinction because the additive in Kagan’s water has lower potency when one drinks the water because it is sitting idle in the lower reservoir whereas the additive in Applicants’ claimed invention has higher potency because the additive is dispensed as the water is flowing toward or at the outlet. Since Kagan fails to disclose this element and this is an element of Applicants’ claimed invention, an anticipation rejection cannot be maintained.

Therefore, Applicants respectfully request that these rejections be withdrawn.

Over Nohren

Claims 1-7, 9 and 15-17 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Nohren *et al.* (U.S. Pat. No. 6,569,329) (“Nohren”). Applicants respectfully traverse. Applicants submit Nohren is missing at least two elements which are present in Applicants’ currently pending claims.

Applicants’ claims recite that the first enhancement module is at the outlet. In contrast, Nohren fails to teach that the enhancement module is at the outlet (See 36 of Fig. 8 of the specification). Furthermore, Nohren recites a treated water feed chamber 38 which accumulates treated water from the radial flow filter 34. In contrast, Applicants’ claims do not recite a treated water chamber after filtration; in fact, Applicants recite that the first enhancement module dispenses an additive into a stream of treated water. Since Nohren fails to disclose these elements and these are elements of Applicants’ claimed invention, an anticipation rejection cannot be maintained.

Therefore, Applicants respectfully request that these rejections be withdrawn.

C. Under 35 U.S.C. § 103(a)

Over Sizelove, Kagan, Nohren, Nohren in view of Corder, Sizelove in view of Kagan and Nohren in view of Sizelove

Claims 4, 8, 9, 12, 18-21 are rejected under 35 U.S.C. §103(a), as allegedly being unpatentable over Sizelove, Kagan, Nohren and Nohren in view of Corder (U.S. Pat. No. 4,172,796), Sizelove in view of Kagan and Nohren in view of Sizelove. Applicants respectfully traverse. Applicants submit that the references are missing at least one element which is present Applicants’ currently pending claims.

In order to establish a *prima facie* case of obviousness, the Examiner must demonstrate that 1) the references teach all the claimed elements; 2) there is a suggestion or motivation in the prior art to modify or combine the reference teachings; and 3) there is a reasonable expectation of success. MPEP § 2143; *In re Vaack* 20 USPQ2d 1438 (Fed. Cir. 1991). For the reasons described below, the cited references fail to establish a *prima facie* case of obviousness and Applicants respectfully traverse.

(1) Sizelove, Kagan, Nohren and Corder fail to teach all of the elements

For the sole purpose of expediting prosecution, Applicants have amended claim 1 to recite that a) the source water is capable of being in fluid communication with the inlet and the outlet, b) a first enhancement module is disposed at the outlet, c) the first enhancement module is downstream and spaced apart from the filter, and d) the first enhancement module dispenses a first enhancement into a stream of treated water. Similar amendments have been made to claims 15 and 18 as well.

In contrast, Sizelove fails to teach that the first enhancement module is spaced apart from the filter. See discussion above. Kagan and Nohren also fail to teach that the enhancement module dispenses into a stream of treated water. See discussion above. Nohren fails to teach the enhancement module is at the outlet. See discussion above. Corder fails to even teach an enhancement module to its system, let alone the disposition of the enhancement module.

Since Sizelove fails to teach that the enhancement module is spaced apart from the filter, Kagan and Nohren fails to teach the enhancement module dispensing into a stream of treated water, Nohren fails to teach that the enhancement module is at the outlet, Corder fails to teach an enhancement module to its system, and these are elements of Applicant's invention, Sizelove, Kagan, Nohren and Corder all fail to teach all of the claimed elements of Applicant's invention. Therefore, a *prima facie* case obviousness rejection cannot be maintained.

(2) There is no suggestion or motivation to modify teachings of the reference

As discussed above, Sizelove fails to suggest, implicitly or explicitly, that the enhancement module is spaced apart. See discussion above. Kagan and Nohren also fail to suggest, implicitly or explicitly, that the enhancement module dispenses into a stream of treated water. Both of these references state explicitly a reservoir for collecting treated water, thereby allowing the treated water to sit idle. Nohren fails to suggest, implicitly or explicitly, that the enhancement module is at the outlet. Corder also fails to suggest, implicitly or explicitly, that its system even contains an enhancement module. Therefore, a *prima facie* case of obviousness cannot be maintained.

(3) Sizelove, Kagan, Nohren and Corder do not provide a reasonable expectation of success

Sizelove, Kagan, Nohren and Corder all fail to provide a reasonable expectation of success in performing Applicant's invention. As mentioned earlier, there is nothing in Sizelove that suggests that the enhancement module is spaced apart. Furthermore, Kagan and Nohren also fail to suggest that the enhancement module dispenses into a stream of treated water. Nohren fails to suggest that the enhancement module is at the outlet. Corder also fails to suggest, implicitly or explicitly, that its system contains an enhancement module. Therefore, Sizelove, Kagan, Nohren and Corder offer no guidance to one of ordinary skill in the art regarding the enhancement module being spaced apart, the enhancement module dispenses into a stream of treated water and the enhancement module is at the outlet. Therefore, a *prima facie* case of obviousness rejection cannot be maintained.

Because Sizelove, Kagan, Nohren and Corder fail to teach all of the claimed elements, do not contain a suggestion or motivation to modify reference teachings and do not provide a reasonable expectation of success, a *prima facie* case of obviousness cannot be set forth. Thus, Applicants respectfully request withdrawal of the rejection.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that the application is in condition for allowance. If, however, some issue remains which the Examiner feels may be addressed by Examiner's amendment, the Examiner is cordially invited to call the undersigned for authorization.

In view of the foregoing amendments and remarks, Applicants request entry of the amendments and reconsideration of the rejections. If some issue remains which the Examiner feels may be addressed by Examiner's amendment, the Examiner is cordially invited to call the undersigned for authorization.

In re Appln. of RINKER et al.
Serial No.: 10/825,344

Please charge any additional fees, including fees for additional extensions of time, or credit overpayment to Deposit Account No. 03 2270.

Respectfully submitted,

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